

AMENDED IN ASSEMBLY MAY 31, 2001
AMENDED IN ASSEMBLY MAY 2, 2001
AMENDED IN ASSEMBLY MARCH 28, 2001

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 992

Introduced by Assembly Member Papan

February 23, 2001

An act to amend Section 56366.3 of, and to add Section 56836.19 to, the Education Code, relating to special education.

LEGISLATIVE COUNSEL'S DIGEST

AB 992, as amended, Papan. Special education: nonpublic, nonsectarian schools and agencies.

(1) Existing law authorizes the provision of special education services by nonpublic, nonsectarian schools under contract with school districts, county offices of education, and special education local plan areas. Existing law authorizes a school district governing board, county superintendent of schools, or county board of education to designate as the lowest salary on its salary schedule for a certificated employee meeting specified criteria an amount that is at least an annual salary of \$34,000 in the 2000–01 fiscal year.

This bill would authorize a nonpublic, nonsectarian school under contract with a school district, county office of education, or special education local plan area to submit a request to the local educational entity for funds to compensate specified employees in an amount equal to the difference between the compensation those employees would receive if they were employed by a school district that increased its

employee salary schedule as described, and the compensation received by the employees from the nonpublic, nonsectarian school, *as described*, thereby imposing a state-mandated local program by requiring local educational entities to undertake new duties.

(2) Existing law prohibits reimbursement by the state for special education and related services provided by a nonpublic, nonsectarian school or agency by an individual who is or was an employee of a contracting local educational entity within the last 365 days, with specified exceptions.

This bill would delete the prohibition against reimbursement by the state for special education and related services provided by a nonpublic, nonsectarian school by an individual who is or was an employee of a contracting local educational entity within the last 365 days, but would not delete the prohibition as it applies to nonpublic, nonsectarian agencies.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 56366.3 of the Education Code is
2 amended to read:
3 56366.3. (a) No contract for special education and related
4 services provided by a nonpublic, nonsectarian agency shall be
5 reimbursed by the state pursuant to Article 4 (commencing with
6 Section 56836.20) of Chapter 7.2 and Section 56836.16 if the
7 contract covers special education and related services,
8 administration, or supervision by an individual who is or was an
9 employee of a contracting district, special education local plan



area, or county office within the last 365 days. Former contracting agency personnel may be employed by a nonpublic, nonsectarian agency if the personnel were involuntarily terminated or laid off as part of necessary staff reductions from the district, special education local plan area, or county office.

(b) This section does not apply to any person who is able to provide designated instruction and services during the extended school year because he or she is otherwise employed for up to 10 months of the school year by the district, special education local plan area, or county office.

SEC. 2. Section 56836.19 is added to the Education Code, to read:

56836.19. (a) (1) A nonpublic, nonsectarian school under contract with a school district, county office of education, or special education local plan area pursuant to Section 56365 or 56366 may submit a request to the school district, county office of education, or special education local plan area for funds to compensate any certificated employee of the nonpublic, nonsectarian school who holds a credential authorizing the rendering of special education and related services, *not including emergency permits, intern certificates or credentials, or waivers*, in an amount equal to the difference between the compensation a holder of such a credential would receive pursuant to Section 45023.1, if the holder were employed by a school district that increased its employee salary schedule pursuant to that section, and the compensation provided to that certificated employee by the nonsectarian school.

(2) For the 2001–02 fiscal year and each fiscal year thereafter, a nonpublic, nonsectarian school that submits a request pursuant to ~~subdivision (a)~~ *paragraph (1)* shall also submit a schedule of salaries paid to employees holding valid California teaching credentials authorizing the rendering of special education services, not including emergency permits, intern certificates or credentials, or waivers, during the 2000–01 fiscal year. The salary schedule shall be used in calculating the difference between the employees' current salaries and the minimum the employees would receive if employed by school districts pursuant to Section 45023.1, as follows:

1 (A) Total the annual salary for each employee eligible pursuant
2 to ~~subdivision (1)~~ *this paragraph* based on a 180-day school year
3 during the 2000–01 fiscal year.

4 (B) Subtract the annual salary amount determined pursuant to
5 subparagraph (A) for each eligible employee from thirty-four
6 thousand dollars (\$34,000) per annum.

7 (C) Total the difference of all eligible employees' annual
8 salaries resulting from subparagraph (B), if any, that are below
9 thirty-four thousand dollars (\$34,000) per annum.

10 (D) Divide the sum of all eligible employees' salaries by the
11 number of contracted pupils served by each eligible employee
12 computed pursuant to subparagraph (C).

13 (E) Divide the quotient of the per pupil costs for each eligible
14 employee computed pursuant to subparagraph (D) by 180 days.

15 (F) Add the quotient determined pursuant to subparagraph (E)
16 to the per diem contract rate specified by the nonpublic school
17 master contract for a daily rate of funding during the 2001–02
18 fiscal year.

19 (G) Subtract the current per diem contract rate specified by the
20 nonpublic school master contract for a daily rate of funding for the
21 2001–02 fiscal year from the per diem contract rate specified in
22 subparagraph (F).

23 (H) Multiply the difference determined pursuant to
24 subparagraph (G) by 180 schooldays for an annual rate of funding
25 for beginning teacher salaries.

26 (3) Each contracting school district, county office of education,
27 and special education local plan area receiving funding requests
28 from a nonpublic school shall sum the results of all funding
29 requests received from the schools determined pursuant to
30 subparagraph (H) of paragraph (2) ~~and submit the total~~, *divide the*
31 *sum by 180 days, and submit the amount* to the Superintendent of
32 Public Instruction for funding.

33 (4) Upon receipt of adjusted state revenue limit funds, each
34 school district, county office of education, and special education
35 local plan area shall amend its current master contract with
36 nonpublic schools that have submitted funding requests for their
37 eligible employees pursuant to this section to increase contract
38 payments to enable the nonpublic schools to increase the salaries
39 of their eligible employees to thirty-four thousand dollars
40 (\$34,000) per annum.

1 (b) *For the 2001–02 fiscal year and each fiscal year thereafter,*
2 *the Superintendent of Public Instruction shall sum the results of*
3 *paragraph (3) of subdivision (a) and add that amount to the*
4 *revenue limit of the school district or county office of education*
5 *with which the nonpublic school has contracted.* From funds
6 appropriated for purposes of this section, the Superintendent of
7 Public Instruction shall allocate funding to school districts, county
8 offices of education, and special education local plan areas for
9 disbursement to nonpublic, nonsectarian schools that submit
10 requests pursuant to subdivision (a).

11 SEC. 2. *It is the intent of the Legislature that funding for this*
12 *act be appropriated from funding provided for purposes of Section*
13 *45023.1 of the Education Code.*

14 SEC. 3. Notwithstanding Section 17610 of the Government
15 Code, if the Commission on State Mandates determines that this
16 act contains costs mandated by the state, reimbursement to local
17 agencies and school districts for those costs shall be made pursuant
18 to Part 7 (commencing with Section 17500) of Division 4 of Title
19 2 of the Government Code. If the statewide cost of the claim for
20 reimbursement does not exceed one million dollars (\$1,000,000),
21 reimbursement shall be made from the State Mandates Claims
22 Fund.

